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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,656	05/03/2001	Colin I'Anson	30003574 US	7310

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EXAMINER

THEIN, MARIA TERESA.T

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/847,656	I'ANSON ET AL.
	Examiner	Art Unit
	Marissa Thein	3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 21 April 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-31 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-31 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10-29-04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 21, 2005 has been entered.

Response to Amendment

Applicants' "Amendment under Rule 116" filed on April, 21, 2005 has been considered.

Applicants' response by virtue of amendment to claim 22 has overcome the Examiner's rejection of such claim under 35 USC 112, second paragraph.

Claims 1, 5-8, 12, 18, 21-22, 24, 26-27 have been amended. Claims 1-31 are pending in this application.

Information Disclosure Statement

The publication cited in the information disclosure statement (IDS) submitted on October 29, 2004 has not been considered, due to the fact that there was no legible copy of the publication provided.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 5-6, 8-12, 18-19, 21 and 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S Patent No. 6,754,636 to Walker et al. in view of U.S. Patent No. 2003/00461186 to Wren.

Regarding claim 1, Walker discloses a shopping assistance, comprising the steps of:

- sending an enquiry message from an enquirer to a service system (see at least col. 7, lines 48-50; col. 30, lines 2-6);
- the service system (purchasing system device):
 - determining location associated with the enquiry (col. 7, lines 62-66; col. 30, lines 49-50);
 - selecting from a database of traders, multiple traders (one or more sellers, one or more manufacturers and retailer, col. 30, lines 16-18) appropriate to the enquiry at least in terms of location and the type of the item of interest (col. 7, line 61-col. 8, line 3; col. 30, lines 14-20); and
 - forwarding the description of the item of interest to the selected traders in an availability enquiry (col. 30, lines 16-32); and
- providing a way for the selected trader to respond to the enquiry (col. 30, lines 36-41).

However, Walker does not disclose the enquiry message including both a machine-readable structured data part and unstructured data comprising at least one of

image and audio data, which the unstructured data is of a type capable of at least one of for human interpretation. Walker discloses information exchanged using a web site, wherein information may be exchanged using a telephone, a facsimile machine, e-mail a WebTV interface, a cable network interface or a wireless device. Information exchanged between a buyer and purchasing system device as well as between a retailer and the purchasing system device may also use Voice response unit. (Col. 7, lines 4-12)

Wren, on the other hand, teaches the enquiry message including both a machine-readable structured data part and unstructured data comprising at least one of image and audio data, which the unstructured data is of a type capable of at least one of for human interpretation (paragraph 30; paragraph 38).

Therefore, It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Walker, to include the enquiry message both including a structured data part and unstructured data part, as taught by Wren, in order to provide the customer with more latitude and fewer limitations in shopping for goods and services or for engaging in business transaction (Wren, paragraph 14).

Regarding claims 2, 5-6 and 24-25, Walker discloses the location is the location of the enquirer (col. 7, lines 63-66; col. 30, lines 49-50); the enquiry message includes a structured data part containing at least one type of parameter for the item of interest and the service system selecting the multiple traders at least one parameter (col. 5, lines 38-41; col. 7, line 62 – col. 8, line 3, col. 30, lines 47-50); the service system processes the

description to extract at least one type parameter for the item of interest and selects the multiple traders by using the at least one parameter (col. 5, lines 38-41; col. 7, line 62 – col. 8, line 3; col. 30, lines 15-33; col. 30, lines 47-50); the availability enquiry includes contact information enabling any of the multiple traders to directly contact the enquirer to inform the latter, on the basis of the description contained in the availability enquire, about the availability through the trader of items of the same type as the item of interest (col. 36, lines 60-67).

Regarding claims 8-12 and 26-28, Walker discloses where the at least one of said multiple traders sends a response to the service system giving information about the availability through the trader of items of the same type as the item of interest; the service system forwards the response to enquirer; the service system stores the response and the enquirer subsequently contacts the service system and retrieves the response; wherein more than one of the multiple traders provide respective responses to the service system, the service system collating the responses and forwarding them to the enquirer; and wherein more than one of said multiple traders provide respective responses to the service system, the service system collating the responses and storing them, the enquirer subsequently contact the service system and retrieving the collating responses (col. 13, lines 44-59; col. 14, lines 1-26; col. 15, lines 14-34; col. 7, lines 4-9; col. 30, lines 25-35; col. 36, lines 60-67).

Regarding claims 18-19, Walker discloses a Universal Resource Identifier wherein the enquirer can find information about items of the same type as the item of

interest that are available through the trader; and wherein the enquirer uses the Universal Resource Identifier to access the information (col. 20, lines 40-44)

Regarding claim 21, Walker discloses a shopping-assistance service system comprising:

- an enquiry-receiving subsystem for receiving an enquiry message (see at least col. 7, lines 48-50; col. 30, lines 2-6);
- a memory for at least temporarily storing the description (col. 10, lines 30-35);
- a location subsystem for automatically selecting from a database of traders, multiple traders (one or more sellers, one or more manufacturers and retailer, col. 30, lines 16-18) appropriate to the enquiry at least in terms of location and type of item of interest (col. 7, line 61-col. 8, line 3; col. 30, lines 14-20);
- an output subsystem for forwarding the description of the item of interest to the multiple traders in a availability enquiry (col. 30, lines 16-32); and
- an enquirer-contact subsystem for providing a way for the multiple traders to respond to the enquiry (col. 30, lines 36-41).

However, Walker does not disclose the enquiry message including both a machine-readable structured data part and unstructured data comprising at least one of image and audio data, which the unstructured data is of a type capable of at least one of for human interpretation. Walker discloses information exchanged using a web site, wherein information may be exchanged using a telephone, a facsimile machine, e-mail a WebTV interface, a cable network interface or a wireless device. Information exchanged between a buyer and purchasing system device as well as between a

retailer and the purchasing system device may also use Voice response unit. (Col. 7, lines 4-12)

Wren, on the other hand, teaches the enquiry message including both a machine-readable structured data part and unstructured data comprising at least one of image and audio data, which the unstructured data is of a type capable of at least one of for human interpretation (paragraph 30; paragraph 38).

Therefore, It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Walker, to include the enquiry message both including a structured data part and unstructured data part, as taught by Wren, in order to provide the customer with more latitude and fewer limitations in shopping for goods and services or for engaging in business transaction (Wren, paragraph 14).

Claims 7, 13-17 and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S Patent No. 6,754,636 to Walker et al. and U.S. Patent No. 2003/00461186 to Wren in view of U.S. Patent No. 6,323,894 to Katz.

Regarding claims 7, 13-17 and 29-31, the combination of Walker and Wren substantially discloses the claimed invention, specifically, a voice circuit via a telephone system (col. 7, lines 9-23). However, the combination does not disclose the direct contact between the traders and enquirer. The combination discloses the system may give the buyer the option of selecting any of the accepting sellers which is presented to the buyer directly at the web site (col. 36, lines 61-65).

Katz, on the other hand, teaches the direct contact between the traders and enquirer (col. 24, lines 22-27).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to the combination of Walker and Wren, to include the direct contact of the traders and enquirer, as taught by Katz, in order to provide a transaction that is completed rapidly and effectively with substantial communication of the goods involved and related considerations (Katz, col. 24, lines 24-27).

Claims 3-4 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S Patent No. 6,754,636 to Walker et al. and U.S. Patent No. 2003/00461186 to Wren in view of U.S. Patent No. 6,026,375 to Hall et al.

Regarding claims 3 and 22, the combination of Cupps and Ogasawara substantially discloses the claimed invention, however, the combination does not disclose the enquiry message being sent from a mobile entity over a cellular radio infrastructure to the service system and determining the location of the enquirer from a location server of the cellular radio. The combination discloses personal digital assistants, wired or wireless telephones, one-way or two –way pagers, or any other appropriate communication devices (Walker, col. 5, lines 6-10). Hall, on the other hand, teaches the mobile entity over a cellular radio and the determination of the location of the enquirer from a location server of the cellular radio (col. 2, lines 49-61; col. 5, lines 38-65).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination, to include the mobile entity over a

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cellular radio and the determination, as taught by Hall, in order to determine a facility capable of completing the order based on the customer's location (Hall col. 2, lines 29-31), so as to provide a user-friendly method that reduces or eliminates the time a customer in a mobile environment waits to receive an order (Hall col. 2, lines 24-26).

Regarding claims 4 and 23, the combination of Walker and Wren substantially discloses the claimed invention, however, the combination does not disclose the location is a shopping location identified in the enquiry message by the enquirer. The combination discloses the retailer may be selected based on the location of the retailer (Walker, col. 7, lines 65-66). Hall, on the other hand, teaches the location is a shopping location identified in the enquiry message by the enquirer (col. 2, lines 49-61).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination, to include the shopping location identified in the enquiry message, as taught by Hall, in order to eliminate or greatly reduce the time the customer spends waiting to receive goods or services (Hall col. 1, lines 19-21).

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S Patent No. 6,754,636 to Walker et al. and U.S. Patent No. 2003/00461186 to Wren.
The combination substantially discloses the claimed invention, however, the combination does not disclose the identity of the enquirer not being disclosed. The difference is only found in the nonfunctional descriptive language and is not functionally involved in the steps recited. The not disclosing the identity of the enquirer would be performed the same regardless of the data. Thus, this descriptive material will not

distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to not disclose the identity of the enquirer such data does not functionally related to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

Response to Arguments

Applicant's arguments with respect to claims 1-31 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,091,956 to Hollenberg discloses a wireless system for providing services and time-critical information about places and events to mobile computers and their users proximate to their current location or potential destinations.

U.S. Patent No. 6,317,718 to Fano et al. discloses an agent based system utilizes a Personal Digital Assistant, Global Positioning System information gathering agent to create a customized offer information summary based on the location of a user and one or more items of interest.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 571-272-6764. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alex Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mtot
June 26, 2005



ALEXANDER KALINOWSKI
PRIMARY EXAMINER